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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,788	05/25/2005	Anna Luiza Moraes de Sa Cavalcanti	04304/0202752-US0	9377

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

MAIL DATE	DELIVERY MODE
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12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,788	Applicant(s) DE SA CAVALCANTI ET AL.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Election/Restrictions

2. Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/01/2007.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 8, line 5 of the bottom walls being "seated against the internal wall (11) of the door" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because it includes legal phraseology such as "said" and "means". Correction is required. See MPEP § 608.01(b).

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-12, 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

9. In each of the independent claims 1 and 14, the preamble clearly indicates a subcombination is being claimed, i.e., "[A]n accessory arrangement for a refrigerator door..." This language would lead the examiner to believe that applicant's intent is to claim the accessory arrangement, and the refrigerator is being only functionally recited. The problem arises when the refrigerator is positively recited within the body of the claim, such as a respective engaging means of the accessory "to be removably affixed to the internal wall of the door". The examiner cannot be sure if applicant's intent is to claim merely the accessory arrangement of the accessory arrangement in combination with a refrigerator door. Applicant is required to clarify what the claim is intended to be drawn to, i.e., either the accessory arrangement alone or the combination of accessory arrangement and the refrigerator door, and the language of the claim is amended to be consistent with the intent. For the purpose of this examination, the examiner is considering that the claim is drawn to the combination of accessory arrangement/can holder and a refrigerator door.

10. Claim 2, line 3, the limitation "one of the values defined by a width and by entire fractions of the width of an accessory" is indefinite for failing to clearly define the metes

and bounds of the claimed invention; it is not entirely clear what applicant is trying to define.

11. Claim 3, the limitation “the confronting rows of two adjacent groups...by a distance superior to that of the rows of each group” is indefinite for failing to clearly define the metes and bounds of the claimed invention; it is not entirely clear what applicant is trying to define.

12. Claim 4, line 3, “the latter” is indefinite; it is not clear which applicant is referring to.

13. Claim 5, the limitation of a bottom wall being “lowered in relation to the internal wall” of the door is indefinite for failing to clearly define the metes and bounds of the claimed invention; it is not entirely clear how the bottom wall is “lowered in relation to the internal wall”.

14. Claim 8, line 3, it is not clear how it is possible for the tubular frames to be “vertically aligned” and “laterally adjacent” to each other.

15. Claim 10, since claim 1 recited an engaging means, the recitation in claim 10, line 2 of “an engaging means” renders the claim indefinite for failing to clearly define whether it is the same or different from the engaging means of claim 1. Applicant is required to carefully amend the claims so that they are conformed with current U.S. practice and definite. All claims will be examined as best understood or so far as definite.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Europe 7071884 to Roeser et al.

Roeser et al discloses a refrigerator comprising all the elements recited in the above listed claims including, such as shown in Figs 1 & 3-4, a plurality of accessories (8), a refrigerator door of the refrigerator has an internal wall carrying retaining means (7), which are identical to each other and disposed according to horizontal rows and vertical columns that are spaced from each other according to a predetermined standard, so that each retaining means (7) can receive and retain, simply by fitting a respective engaging means (7.1,7.2) incorporated to one of said accessories to be removably affixed to the internal wall of the door, the distances between the vertical columns of the retaining means and the widths of the accessories being designed so that the useful width of said internal wall can be fully occupied with multiple accessories adjacently disposed side by side, each accessory having at least one engaging means fitted in a respective retaining means; wherein the retaining means being defined by a respective extension of a channel presenting a front opening with reduced width, and each engaging means comprises a pair of rear projections/flaps presenting a cross

section contour that is similar to and lightly smaller than the cross section contour of the channel that define the retaining means.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

20. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roeser et al in view of Europe 1278034 to Martinoia et al and USP 2,254,208 to Brock.

Roeser et al discloses all the elements as discussed above except for each accessory is in the form of can holders comprising (1) at least two tubular frames which are parallel to each other, vertically aligned and laterally adjacent and have rear ends defined by respective bottom walls which are coplanar to each other and will be seated against the internal wall of the door, and open front ends, which are substantially parallel to the bottom walls and incorporated to a front flange, said tubular frames having their axes upwardly inclined from the bottom walls; (2) the tubular frames having

cylindrical lateral walls, intersecting and laterally communicating in relation to each other; (3) at least one of the bottom walls incorporates said engaging means to be fitted in a respective one of said retaining means provided in the internal wall of the door; (4) the front flange incorporates end flaps projecting rearwards, orthogonal to the plane of the bottom walls, so as to be medianly affixed to the cylindrical lateral wall of the tubular frames by means of structural ribs; and (5) the cylindrical lateral walls of the tubular frames are provided with windows.

Martinoia et al teaches the idea of providing a refrigerator door 1 with can holders 11 having a bottom wall seated against the internal wall of the door via element 15, the bottom wall incorporated with an engaging means 14 to be fitted in a respective one of retaining means 8 provided in the internal wall of the door 1 in order to support cylindrical objects thereon. Brock discloses an alternate can holder structure comprising at least two tubular frames which are parallel to each other, vertically aligned and laterally adjacent and have rear ends defined by respective bottom walls which are coplanar to each other, open front ends, which are substantially parallel to the bottom walls, said tubular frames having their axes upwardly inclined from the bottom walls; the tubular frames having cylindrical lateral walls, intersecting and laterally communicating in relation to each other, the front flange incorporates end flaps projecting rearwards, orthogonal to the plane of the bottom walls, so as to be medianly affixed to the cylindrical lateral wall of the tubular frames by means of structural ribs; and the cylindrical lateral walls of the tubular frames are provided with windows, defining as the gaps between the walls; wherein the can holder structure of Brock allows easy insertion

of cylindrical objects therein, yet securely holds said objects therein. Therefore, it would have been obvious to modify the structure of Roeser et al by having the accessory in the form of can holders comprising (1) at least two tubular frames which are parallel to each other, vertically aligned and laterally adjacent and have rear ends defined by respective bottom walls which are coplanar to each other and will be seated against the internal wall of the door, and open front ends, which are substantially parallel to the bottom walls, said tubular frames having their axes upwardly inclined from the bottom walls; (2) the tubular frames having cylindrical lateral walls, intersecting and laterally communicating in relation to each other; (3) at least one of the bottom walls incorporates said engaging means to be fitted in a respective one of said retaining means provided in the internal wall of the door; (4) the front flange incorporates end flaps projecting rearwards, orthogonal to the plane of the bottom walls, so as to be medianly affixed to the cylindrical lateral wall of the tubular frames by means of structural ribs; and (5) the cylindrical lateral walls of the tubular frames are provided with windows for the purpose of easily supporting cylindrical objects while allowing easy insertion of cylindrical objects therein, yet securely holds said objects therein, as taught by Martinoia et al and Brock, since the references teach alternate conventional refrigerator accessory structure, used for the same intended purpose of holding objects in a refrigerated enclosure, thereby providing structure as claimed. In regard to the open front ends incorporate to a front flange, it is well known in the art to provide the open end of a cylindrical can holder with a front flange in order to facilitate removal of the can holder by gripping on said flange.

21. Claims 14-19, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Europe 1278034 to Martinoia et al in view of Roeser et al, USP 2,254,208 to Brock, and USP 2,512,502 to Paschell.

Martinoia et al teaches the idea of providing a refrigerator door 1 with can holders 11 having a bottom wall seated against the internal wall of the door via element 15, the bottom wall incorporated with an engaging means 14 to be fitted in a respective one of retaining means 8 provided in the internal wall of the door 1 in order to support cylindrical objects thereon. The differences being that Martinoia fails to disclose the door having a plurality of vertically spaced retaining means, the can holder comprises at least two tubular frames which are laterally adjacent, vertically aligned and parallel to each other, having rear ends closed by respective bottom walls that are coplanar to each other, and open front ends defined by a front flange incorporating upper and lower end flaps projecting rearwards, orthogonal to the plane of the bottom walls and which are structurally coupled to the adjacent tubular frames, said upper end flap being slidably seated on a pair of rails incorporated under a shelf mounted to one of the parts defined by the cabinet and the internal wall of the door of a refrigerator; the engaging means comprises a rear projection of a respective bottom wall that is shaped to define a dove tail fit with a respective retaining means; the tubular frames have their axes upwardly inclined from the bottom walls; the tubular frames have their cylindrical lateral walls intersecting and laterally communicating in relation to each other.

Roeser et al discloses a refrigerator comprising all the elements recited in the above listed claims including, such as shown in Figs 1 & 3-4, a plurality of accessories

(8), a refrigerator door of the refrigerator has an internal wall carrying retaining means (7), which are identical to each other and disposed according to horizontal rows and vertical columns that are spaced from each other according to a predetermined standard, so that each retaining means (7) can receive and retain, simply by fitting a respective engaging means (7.1,7.2) incorporated to one of said accessories to be removably affixed to the internal wall of the door, the distances between the vertical columns of the retaining means and the widths of the accessories being designed so that the useful width of said internal wall can be fully occupied with multiple accessories adjacently disposed side by side, each accessory having at least one engaging means fitted in a respective retaining means; wherein the retaining means being defined by a respective extension of a channel presenting a front opening with reduced width, and each engaging means comprises a pair of rear projections/flaps presenting a cross section contour that is similar to and lightly smaller than the cross section contour of the channel that define the retaining means; wherein the structure of Roeser et al provides vertically adjustable accessory arrangement.

Brock discloses an alternate can holder structure comprising at least two tubular frames which are parallel to each other, vertically aligned and laterally adjacent and have rear ends defined by respective bottom walls which are coplanar to each other, open front ends, which are substantially parallel to the bottom walls, said tubular frames having their axes upwardly inclined from the bottom walls; the tubular frames having cylindrical lateral walls, intersecting and laterally communicating in relation to each other, the front flange incorporates end flaps projecting rearwards, orthogonal to the

plane of the bottom walls, so as to be medianly affixed to the cylindrical lateral wall of the tubular frames by means of structural ribs; and the cylindrical lateral walls of the tubular frames are provided with windows, defining as the gaps between the walls; wherein the can holder structure of Brock allows easy insertion of cylindrical objects therein, yet securely holds said objects therein.

Paschell discloses an alternate idea of providing a can holder with an upper end flap being slidingly seated on a pair of rails incorporated under a shelf mounted to the cabinet of a refrigerator in order to maximize the interior space of a refrigerator.

Therefore, it would have been obvious to modify the structure of Martinoia et al by providing the door with a plurality of retaining means therein in order to allow height adjustable of accessories on the door, as taught by Roeser et al, the can holder comprising at least two tubular frames which are parallel to each other, vertically aligned and laterally adjacent and have rear ends defined by respective bottom walls which are coplanar to each other, open front ends, which are substantially parallel to the bottom walls, said tubular frames having their axes upwardly inclined from the bottom walls; the tubular frames having cylindrical lateral walls, intersecting and laterally communicating in relation to each other, the front flange incorporates end flaps projecting rearwards, orthogonal to the plane of the bottom walls, so as to be medianly affixed to the cylindrical lateral wall of the tubular frames by means of structural ribs; and the cylindrical lateral walls of the tubular frames are provided with windows, defining as the gaps between the walls; wherein the can holder structure of Brock allows easy insertion of cylindrical objects therein, yet securely holds said objects therein, as taught by Brock,

and the can holder having an upper end flap being slidingly seated on a pair of rails incorporated under a shelf mounted to the cabinet of a refrigerator in order to maximize the interior space of a refrigerator, as taught by Paschell, since the references teach alternate conventional refrigerator accessory structure, used for the same intended purpose of holding objects in a refrigerated enclosure, thereby providing structure as claimed. In regard to the open front ends incorporate to a front flange, it is well known in the art to provide the open end of a cylindrical can holder with a front flange in order to facilitate removal of the can holder by gripping on said flange.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Astleford, Locke, Philipp, Lambert, Myer, Mahony, DE 29502535, and Park all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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HVT
December 25, 2007

Hanh V. Tran
Art Unit 3637